

15A NCAC 02Q .0512 PERMIT SHIELD AND APPLICATION SHIELD

(a) Permit Shield:

- (1) The Director shall place in a permit issued pursuant to this Section a permit term or condition (a permit shield) stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements specifically identified in the permit in effect as of the date of permit issuance, provided that:
 - (A) such applicable requirements are included and are specifically identified in the permit; or
 - (B) the Director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source and the permit includes that determination or a concise summary thereof.
- (2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (3) A permit shield shall state that it does not alter or affect:
 - (A) the power of the Commission, Secretary of the Department, or Governor under G.S. 143-215.3(a)(12) or EPA under Section 303 of the federal Clean Air Act;
 - (B) the liability of an owner or operator of a facility for any violation of applicable requirements prior to the effective date of the permit or at the time of permit issuance;
 - (C) the applicable requirements under Title IV; or
 - (D) the ability of the Director (or EPA pursuant to Section 114 of the federal Clean Air Act) to obtain information to determine compliance of the facility with its permit, this Section, or Subchapter 02D of this Chapter.
- (4) A permit shield shall not apply to any change made at a facility that does not require a permit revision.
- (5) A permit shield shall not extend to minor permit modifications made pursuant to 15A NCAC 02Q .0515.

(b) Application Shield.

- (1) Except as provided in Subparagraph (b)(2) of this Rule, if the applicant submits a timely and complete application for permit issuance (including for renewal), the facility's failure to have a permit pursuant to this Section shall not be a violation:
 - (A) unless the delay in final action is due to the failure of the applicant to timely submit information as required or requested by the Director, or
 - (B) until the Director takes final action on the permit application.
- (2) Subparagraph (b)(1) of this Rule shall cease to apply if, subsequent to the completeness determination made pursuant to 15A NCAC 02Q .0507, the applicant fails to submit by the deadline specified in writing by the Director, any additional information identified as being needed to process the application.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. July 1, 1997;
Readopted Eff. April 1, 2018.